

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICROBILT CORPORATION,

Plaintiff,

Case No. 05-60038

v.

District Judge Marianne O. Battani  
Magistrate Judge R. Steven Whalen

DIGITAL DIALOGUE, LLC.,  
DIALOGUE MARKETING, INC.,  
and PETER SCHMITT,

Defendants.

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**ORDER DENYING WITHOUT PREJUDICE IN PART AND  
GRANTING IN PART DEFENDANTS' MOTION FOR DISCOVERY  
SANCTIONS AND TO REMOVE CONFIDENTIALITY DESIGNATION**

Before the Court is Defendants' Motion for Discovery Sanctions and to Remove Confidentiality Designation on Expert Report [Docket #43]. For the reasons and under the terms stated on the record on May 23, 2006,

The Motion for Sanctions is DENIED WITHOUT PREJUDICE. However, Plaintiff shall, within 7 days of the date of this Order, produce any and all heretofore undisclosed documents covered by Defendants' Document Request #3 and Paragraph 3 of this Court's previous order of March 10, 2006. In addition, within 7 days of the date of this Order, Plaintiff shall produce copies of all license agreements, as set forth in Defendants' Document

Request #7 and Paragraph #2 of this Court's previous order of March 10, 2006. FAILURE TO COMPLY WITH THIS OR ANY DISCOVERY ORDER WILL RESULT IN SEVERE SANCTIONS UNDER FED.R.CIV.P. 37, UP TO AND INCLUDING DISMISSAL OF THE CASE AND CONTEMPT OF COURT SANCTIONS.

Further, pursuant to Fed.R.Civ.P. 37, Plaintiff is assessed and Defendant is awarded costs and attorney fees in the amount of \$1,000.00.

Finally, because Plaintiff has agreed to the relief requested regarding the motion to remove the confidentiality designation from the expert report, that portion of this motion is GRANTED.

S/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Dated: May 23, 2006

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on May 23, 2006.

S/Gina Wilson  
Judicial Assistant